

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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THEODORE SMITH,

Plaintiff,

v.

DR. GAMBARO, et al.,

Defendants.

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OPINION and ORDER

Case No. 17-cv-70-wmc

*Pro se* plaintiff Theodore Smith, an inmate at Columbia Correctional Institution (“Columbia”) is proceeding in this lawsuit against several Columbia employees on Eighth Amendment deliberate indifference, excessive force and conditions of confinement claims. On March 5, 2020, defendants filed a motion for summary judgment for failure to exhaust administrative remedies. (Dkt. #21.) Following the preliminary pretrial conference, which plaintiff could not attend because of a scheduling problem at his institution, Magistrate Judge Crocker issued a text-only order that (1) set May 15, 2020, as plaintiff’s deadline to respond to defendants’ motion, and (2) instructed plaintiff as to how he should respond to defendants’ motion. (Dkt. #25.) That deadline has passed, and Smith has not responded to defendants’ motion or contacted the court seeking clarification or an extension of that deadline. His failure to respond to defendants’ motion, or to take any other action indicating that he is preparing an opposition, suggests that he may not oppose the motion. Accordingly, the court will give Smith one more chance to respond to defendants’ motion: he now has until **June 26, 2020**, to file an opposition to defendants’ motion for summary judgment. His failure to meet this deadline will cause the court to

grant defendants' motion as unopposed and dismiss this lawsuit without prejudice for failure to exhaust administrative remedies.

ORDER

IT IS ORDERED that plaintiff Theodore Smith may have until **June 26, 2020**, to file a response to defendants' motion for summary judgment. **If Smith does not respond by that date, the court will dismiss his claims without prejudice.**

Dated this 5th day of June, 2020.

BY THE COURT:

/s/

WILLIAM M. CONLEY  
District Judge